

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

MARIE PIMENTEL, M.D.

License No. 22505
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-08-0120A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND AND
PROBATION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Marie Pimentel, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges she has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement or any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any

1 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
2 other pending or future investigation, action or proceeding. The acceptance of this
3 Consent Agreement does not preclude any other agency, subdivision or officer of this
4 State from instituting other civil or criminal proceedings with respect to the conduct that is
5 the subject of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof)
13 to the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that
21 will be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

5 **12. Respondent has read and understands the condition(s) of probation.**

6
7 Marie Pimentel

8 MARIE PIMENTEL, M.D.

DATED: 9-9-08

1
2 **FINDINGS OF FACT**

3 1. The Board is the duly constituted authority for the regulation and control of
4 the practice of allopathic medicine in the State of Arizona.

5 2. Respondent is the holder of license number 22505 for the practice of
6 allopathic medicine in the State of Arizona.

7 3. The Board initiated case number MD-08-0120A after receiving a complaint
8 regarding Respondent's care and treatment of a forty-eight year-old male patient ("JD").

9 4. On December 11, 1007, JD established care with Respondent and reported
10 a history of bilateral carpal tunnel surgery and being treated with Oxycontin by a physician
11 in Florida. JD also reported being treated for anxiety and depression with Xanax and
12 Cymbalta by another physician. There was no documentation in JD's record that
13 Respondent verified this information. Respondent noted a bilateral Tinel sign test in JD's
14 history, prescribed JD a one month supply of Oxycontin and instructed him to obtain his
15 pain management records from Florida. There was no documentation that Respondent
16 evaluated JD prior to prescribing the Oxycontin. Specifically, Respondent did not perform a
17 targeted physical examination and conduct a pain and drug history. Additionally, there was
18 no documentation that Respondent obtained JD's medical records from other treatment
19 providers.

20 5. In response to the Board's investigation, Respondent stated that she referred
21 JD to orthopedic and pain management specialists on December 11, 2007. However,
22 there was no documentation to support any referrals to specialists.

23 6. One day after the initial visit with Respondent, JD left a telephone message
24 requesting that the Respondent lie to his employer regarding his dosage of Oxycontin in
25 order to explain the results of a random urine drug screen.

1 7. On December 23, 2007, Respondent was informed by a pharmacy that JD
2 was also prescribed benzodiazepines from another physician and cautioned her in the co-
3 administration of Oxycodone with benzodiazepines. The pharmacy provided Respondent
4 with JD's prescriptions from January 2007 to the present date; however, there were no
5 prescriptions for Oxycontin until Respondent's prescription.

6 8. On December 27, 2007, JD presented to Respondent for a follow up
7 appointment. JD reported that his past medical records were archived and therefore he did
8 not have copies for Respondent. JD requested a refill for Oxycontin because he exhausted
9 his one month supply provided on December 11, 2007. JD also reported that his Cymbalta
10 and Xanax had been replaced with Trazodone and Risperdal. Respondent documented
11 that JD "always appears overly respectful and often appears to cry easily or tries to".
12 Respondent informed JD that if he abused the medication, he would need to find a new
13 physician. Respondent provided JD with a prescription for Oxycontin and signed and dated
14 the prescription for January 9, 2008. It is a violation of Arizona statute to sign a predated
15 prescription. Again, there was no documentation that Respondent obtained JD's records
16 from other providers.

17 9. JD filled the Oxycontin prescription Respondent wrote on December 27,
18 2007 on January 9, 2008 and died the following day on an airplane en route to New
19 Jersey. The autopsy report concluded that the cause of death was acute intoxication due
20 to the combined effects of Oxycodone, Xanax and Estazolam.

21 10. The standard of care prior to prescribing opioids for chronic non-malignant
22 pain requires a physician to adequately evaluate the patient that includes a pain history,
23 review of past medical records, targeted physical examination and drug history.

24 11. Respondent deviated from the standard of care because she did not
25 adequately evaluate JD prior to prescribing Oxycontin, which should have included a

1 review of JD's past medical records, performing a targeted physical examination and
2 conducting a pain and drug history.

3 12. The standard of care when prescribing opioids from chronic pain requires a
4 physician to closely monitor for, recognize, and respond to problems suggestive of non-
5 compliance and/or aberrant drug seeking.

6 13. Respondent deviated from the standard of care because she did not
7 recognize and/or properly act upon numerous red flags presented at the initial visit and the
8 subsequent visits by JD.

9 14. Respondent's inappropriate prescribing resulted in harm or potential harm
10 to JD, as it allowed JD to obtain additional Oxycontin, which JD abused in combination
11 with Xanax and Estazolam, resulting in his death.

12 15. A physician is required to maintain adequate legible medical records
13 containing, at a minimum, sufficient information to identify the patient, support the
14 diagnosis, justify the treatment, accurately document the results, indicate advice and
15 cautionary warnings provided to the patient and provide sufficient information for another
16 practitioner to assume continuity of the patient's care at any point in the course of
17 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because there
18 was no documentation that Respondent verified JD's treatment information, that she
19 adequately evaluated JD prior to prescribing Oxycontin, that she obtained JD's medical
20 records from other treatment providers and that she referred JD to any specialists.

21 22 CONCLUSIONS OF LAW

23 1. The Board possesses jurisdiction over the subject matter hereof and over
24 Respondent.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(e) (“[f]ailing or refusing to maintain adequate records on a patient.”), A.R.S. § 32-1401(27)(k) (“[s]igning a blank, undated or predated prescription form.”), and A.R.S. § 32-1401(27)(q) (“[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.”)

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand for prescribing a controlled substance without first conducting an adequate history and physical examination, for signing a predated prescription, for failure to act upon several red flags indicative of drug seeking behavior, and for failure to maintain adequate records.

2. Respondent is placed on probation for **one year** with the following terms and conditions:

a. Continuing Medical Education

Respondent shall within **one year** of the effective date of this Order obtain **15 - 20 hours** of Board Staff pre-approved Category I Continuing Medical Education (CME) in **prescribing controlled substances** and provide Board Staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The probation shall terminate upon successful completion of the CME.

b. Obey All Laws

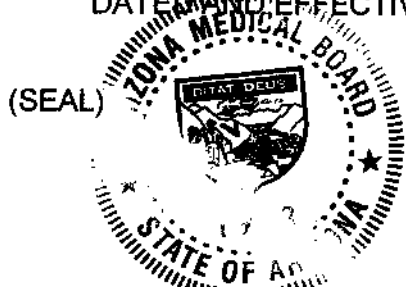
Respondent shall obey all state, federal and local laws, all rules governing the practice of medicine in Arizona, and remain in full compliance with any court ordered criminal probation, payments and other orders.

c. Tolling

1 In the event Respondent should leave Arizona to reside or practice outside the
2 State or for any reason should Respondent stop practicing medicine in Arizona,
3 Respondent shall notify the Executive Director in writing within ten days of departure and
4 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
5 time exceeding thirty days during which Respondent is not engaging in the practice of
6 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
7 non-practice within Arizona, will not apply to the reduction of the probationary period.

8 3. This Order is the final disposition of case number MD-08-0120A.

9 DATED AND EFFECTIVE this 14th day of October, 2008.



ARIZONA MEDICAL BOARD

11 By

L. S. Wynn
Lisa S. Wynn
Executive Director

12 ORIGINAL of the foregoing filed
13 this 14th day of October, 2008 with:

14 Arizona Medical Board
15 9545 E. Doubletree Ranch Road
16 Scottsdale, AZ 85258

17 EXECUTED COPY of the foregoing mailed
18 this 14th day of October, 2008 to:

19 Mr. Gordon Lewis
20 Jones, Skelton & Hochuli, P.L.C.
21 2901 North Central Avenue, Suite 800
Phoenix, Arizona 85012

22 EXECUTED COPY of the foregoing mailed
23 this 14th day of October, 2008 to:

24 Marie Pimentel, M.D.
Address of Record

25 Chris Bump
Investigational Review